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**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MONTANA**

In re

**CENTER FOR ASBESTOS
RELATED DISEASE, INC.,**

Case No. 9:23-bk-90135-BPH

Debtor.

STIPULATION

In this Chapter 11 subchapter V bankruptcy, the Debtor filed its “Plan of Reorganization for Small Business Under Chapter 11” on November 6, 2023 at ECF 43 (the “Plan”) and the Court by Order filed November 8, 2023, at ECF 51 set a hearing on confirmation of the Plan for January 11, 2023. Objections to confirmation of the Plan were filed by BNSF Railway Company (“BNSF”) and the Department of Health and Human Services Center (“DHHS”) and joined by the United States Department of Justice. DHHS filed a Motion to Dismiss on December 5, 2023, at ECF 65.

Prior to this bankruptcy case filing, on July 18, 2023, the U.S. District Court entered an amended judgment under the False Claims Act in favor of the United States and against the Debtor in BNSF Railway Company, on behalf of the United States of America vs. Center for Asbestos Related Disease, Inc. in the United States District Court for the District of Montana, Missoula Division, under CV 19-40-M-DLC (“FCA Judgment”). Debtor appealed the FCA Judgment on July 20, 2023.

The parties stipulate and agree as follows:

1. In its Motion to Dismiss, DHHS alleged that all, or substantially all, of the Debtor’s income and real and personal property is held in trust for the benefit of the United States to the extent it was purchased and maintained with federal grant money. The Debtor has a small amount of non-grant income which was commingled with grant income including a post-petition transfer into a debtor-in-possession bank account. This Stipulation for Dismissal is made with the intention of establishing as a fact that the bases for the DHHS Motion to Dismiss is accepted by the parties hereto.

2. Bankruptcy case to be dismissed pursuant to the terms of this Stipulation.

3. Dismissal of this bankruptcy case has no preclusive effect on nondischargeability of the FCA Judgment in any future bankruptcy case.

4. Administrative and professional fees and costs related to the bankruptcy are not allowable uses of federal grant money and are subject to disallowance by the granting agency. The Debtor acknowledges that it is subject to the reporting and use requirements of the grant and related agency administrative procedures. All allowable bankruptcy-related fees and costs shall be paid solely from the Debtor's non-grant income.

5. Any payment of post-petition professional fees will be subject to approval by the Bankruptcy Court pursuant to LBR 2016-1.

6. Federal grant money and property held in trust for the benefit of the United States cannot be used to pay the FCA Judgment and/or related costs and expenses, including attorney fees and costs. The authorized uses of federal grant money are governed principally by: the DHHS grants regulations, at 45 C.F.R. Subtitle A, Subchapter A, Part 75 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements); the DHHS Grants Policy Statement; the DHHS Grants Policy Administration Manual; the rulings of the DHHS Departmental Appeals Board; Notices of Funding Opportunity; Notices of Award; Debtor's grant applications; Debtor's approved budgets; and DHHS authorizations of Debtor's expenses.

7. Following dismissal, the Debtor can pay any creditors with Non-Priority General Unsecured Claims from grant funds to the extent the claims are for authorized expenses under the terms of the grant and under the applicable DHHS grant regulations and guidance materials.

8. This Stipulation is subject to bankruptcy court approval on CARD's motion.

WHEREFORE, the parties request the Court enter its Order approving this Stipulation

and its terms.

DATED March 13, 2024

/s/ Tracy McNew

Tracy McNew, Director
Center for Asbestos Related Disease, Inc., Debtor

DATED March 13, 2024

/s/ James A. Patten

Attorney for Debtor

DATED March 13, 2024

/s/ Greg Bongiovanni

Greg Bongiovanni, Agency Counsel
Office of the General Counsel
United States Department of Health & Human Services

DATED March 14, 2024

/s/ Lynsey Ross

Attorney for United States Department of Health and Human Services

DATED March 14, 2024

/s/ Lynsey Ross

Attorney for United States Department of Justice

DATED March 15, 2024

/s/ Chad M. Knight

Chad M. Knight
Its: Authorized Representative/Legal Counsel
BNSF Railway Company

DATED March 14, 2024

/s/ Richard J. Samson

Attorney for BNSF Railway Company

DATED March 14, 2024

/s/ Christy L. Brandon

Subchapter V Trustee